

R E M A R K S

In the present Office Action mailed March 19, 2007, claims 5-7, 9-12, 17-19, 22 and 25 are pending. Of these claims, 5, 19, 22, and 25 are independent. The Examiner rejected all the claims.

Claims 5, 19, 22, and 25 have been amended herein. No claims have been added, canceled, or withdrawn in the current Amendment.

Applicants are not conceding in this Amendment that those claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the Application. Applicants respectfully reserve the right to pursue these and other claims in one or more continuation and/or divisional patent applications.

A. REJECTION OF CLAIMS UNDER 35 U.S.C. §112, 2ND PARAGRAPH

The Office Action rejects claims 5-7, 9-12 and 17-19 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. More specifically, the Examiner appears to assert on page 2 of the Office Action that it is not clear if the empty indicator means the queue is empty or the queue has no flow in it.

Applicants respectfully submit that amendments to the independent claims that include features related to the empty indicator render moot the 35 U.S.C. §112 rejection. Applicants have amended the independent claims 5, 19, 22, and 25 in relation to an "empty indicator [that] is configured to

indicate the queue is not empty" or the like. For example, the amended independent claim 5 now includes features such as "wherein the empty indicator is configured to indicate the queue is not empty when a flow is attached or reattached to the queue."

Applicants submit that such features are supported by the specification. The term finds support in the disclosure of the present invention on at least pages 12-13. For example, with reference to FIG. 4 the detailed description of the present invention teaches that "... each time a flow is **attached or reattached** to a scheduling queue 42, the corresponding empty indicator 50 is forced to a condition which indicates that the corresponding scheduling queue 42 is not empty." (Pages 12-13 lines 29-2, emphasis added).

Accordingly, Applicants respectfully submit that the amended independent claims 5, 19, 22, and 25 are allowable under 35 U.S.C. §112, second paragraph.

B. REJECTION UNDER 35 U.S.C. §103

On page 4 of the Office Action, claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,481,251 (Meier et al) in view of U.S. Publication No. 2002/0024830 (Yoneda). Claims 19 and 22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants' admitted prior art in view of Yoneda and Meier et al. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants' admitted prior art in view of Yoneda. Of these, claims 5, 19, 22, and 25 are the only independent claims.

Solely for the purpose of expediting prosecution, Applicants herein amend the independent claims to make

explicit what were implicit features related to the empty indicator. That is, Applicants submit that the independent claims have each been amended with at least one novel feature such as empty indicator that is configured to indicate the queue is not empty when a flow is attached or reattached to the respective scheduling queue or the like (See for example claim 5). The Examiner appears to assert that the empty indicator of the present application is the same as the flipflop taught by Yoneda (Office Action, pages 4-5). For reasons explained below, Applicants respectfully disagree with this assertion.

In contrast to such features of the empty indicator, Yoneda appears to teach a flipflop that indicates whether **valid** data is stored or not in the word memory (Yoneda paragraph [0023]). That is, Yoneda appears to indicate whether the data stored in the word memory is **valid**, not whether **a flow has been attached** to the scheduling queue as recited in the amended claims. Thus, there does not appear to be anything in the recited passages that teaches the implicit limitations. Further, the remainder of the Yoneda reference does not appear to overcome this deficiency. Since the Yoneda reference does not teach the features related to the empty indicator for which it was relied upon, Applicants assert that none of the relied upon references (*i.e.*, Meier *et al*, Yoneda, and the acknowledged background of the present invention) teach all of the features of the amended independent claims.

In an additional amendment to facilitate prosecution, Applicants have amended the independent claims 5, 19, 22, and 25 with additional features that Applicants respectfully submit are not taught or suggested by, or obvious over, the relied upon references, alone or in combination. In

one example, Applicants have amended the independent claims 5, 19, and 22 to include the features of "finding a flow attached to the scheduling queue if the search does not determine the scheduling queue is empty" or the like. In another example, the independent claims 5, 19, and 22 have also been amended to include the features of "determine whether a higher priority flow preempts servicing of the flow found during the search." Independent claim 25 has been amended with additional features such as "scheduling queue is not empty is performed due to attaching the flow to the scheduling queue." Additional amendments have been made to the independent claims that further distinguish the present Application over the relied upon references.

In accordance with the above, Applicants assert that the amended independent claims 5, 19, 22, and 25 are allowable over the Meier *et al*, Yoneda, and the acknowledged prior art references under 35 U.S.C. §103(a).

C. CONCLUSION

Since the Applicants assert that all the independent claims are in condition for allowance and all remaining claims properly depend from the independent claims, Applicants assert that all claims are allowable.

Applicants do not believe any Request for Extension of Time is required but if it is, please accept this paragraph as a Request for Extension of Time and authorization to charge the requisite extension fee to Deposit Account No. 04-1696. Applicants do not believe any additional fees are due

regarding this Amendment. However, if any additional fees are required, please charge Deposit Account No. 04-1696.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Steven M. Santisi". The signature is stylized with a large, looped initial "S" and a cursive-style name.

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Tarrytown, New York

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